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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JAMES A. GARDIN,

11 Plaintiff,

12 v.

13 CORRECTIONAL OFFICER MAHN,

14 Defendant.
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CASE NO. C09-5116RJB

ORDER ADOPTING REPORT
AND RECOMMENDATION

16 The Court, having reviewed plaintiff's complaint, the Report and Recommendation of
17 Magistrate Judge J. Richard Creatura, objections to the report and recommendation, if any, and
18 the remaining record, does hereby find and ORDER:
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- 20 (1) The Court **ADOPTS** Magistrate Judge J. Richard Creatura's Report and
21 Recommendation (Dkt. 22);
22 (2) Defendants motion to dismiss (Dkt. 15) is **DENIED**;
23 (3) Upon entry of this order, the Clerk is directed to perform service of a copy of the
24 complaint, along with the waiver of service of summons, by first class mail. If a
25 waiver and appropriate response to the Complaint is not filed by defendant in a
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1 timely manner, the U.S. Marshal will be directed to personally serve the summons
2 and copy of the complaint and costs will be imposed upon defendant.

- 3 (4) The Clerk is directed to send copies of this Order to all counsel of record and to any
4 party appearing *pro se* at said party's last known address.

5 DATED this 24th day of February, 2010.

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8 ROBERT J. BRYAN
9 United States District Judge
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